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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/072,097

02/08/2002

Graham Haley

CISCO-5183

9463

28661 7590 02/23/2007
SIERRA PATENT GROUP, LTD.
1657 Hwy 395, Suite 202
Minden, NV 89423

EXAMINER

BURGESS, BARBARA N

ART UNIT

PAPER NUMBER

2157

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/072,097	HALEY ET AL.	
	Examiner	Art Unit	
	Barbara N. Burgess	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,12-19,23-31 and 34-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,12-19,23-31 and 34-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Amendment filed December 6, 2006. Claims 1-8, 12-19, 23-31, 34-41 are presented for further examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8, 12-19, 23-31, 34-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Jennings, III (hereinafter "Jen", US Patent 6,732,165 B1).

As per claims 1, 12, 23, 34, Jen discloses in a local area network (LAN") system comprising at least one client, a method performed by a client to receive MAC address, processor and memory, and program instructions, wherein said client-side method, processor and memory, and program instructions comprises:

- Selecting by said client a MAC address available for said network (column 4, lines 51-52, column 5, lines 4-5, column 6, line 8);
- Monitoring by said client broadcasts over said network for each MAC address advertisement frame transmitted over said network responsive to selecting said MAC address (column 4, lines 49-53);

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- Determining whether each said advertisement frame monitored by said client is an advertisement frame for said selected MAC address (column 6, lines 5-12);
- Broadcasting a MAC address request frame by said client wherein said MAC address request is requesting by said selected MAC address, responsive to a determination that each said MAC advertisement frame monitored is not an advertisement frame for said selected MAC address (column 4, lines 53-55, column 6, lines 24-26);
- Determining whether a MAC address response frame was received by said client responsive to broadcasting said MAC address advertisement frame (column 4, lines 55-56, 59-60, column 5, lines 11-15, column 6, lines 25-29).
- Broadcasting a MAC address advertisement frame from said client wherein said MAC address advertisement frame is for said selected address indicating said client is using said selected address if no MAC address response frame was received (column 4, lines 57-58, column 5, lines 15-18, column 6, lines 41-43, 65-66, column 7, lines 1-2).

As per claims 2, 13, 25, 35, Jen discloses the method, processor and memory, and program instructions of Claims 1, 14, 24, 34, wherein said client-side method further comprises:

- Receiving a MAC advertisement frame by said client (column 6, lines 3-5);
- Determining whether said MAC address advertisement frame for selected address was received by said client (column 6, lines 7-9);

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- Sending a duplicate MAC address frame from said client, responsive to a determination that said MAC address advertisement frame is for said selected MAC address (column 6, lines 13-16);
- Returning to the act of broadcasting MAC address advertisement frames for said selected address from said client (column 6, lines 13-19).

As per claims 3, 14, 25, 36, Jen discloses the method, processor and memory, and program instructions of Claims 2, 13, 25, 35, wherein said client-side method further comprises:

- Receiving a MAC address response frame from a server by said client (column 4, lines 55-59);
- Determining whether said confirms the availability of said selected MAC address for said client if a MAC address response frame being received (column 4, lines 60-63);
- Employing said MAC address for said client (column 5, lines 15-16);
- Proceeding to said act of broadcasting said MAC address-advertisement frame for said selected address from said client (column 6, lines 65-67, column 7, lines 1-2).

As per claims 4, 15, 26, 37, Jen disclose the method, processor and memory, and program instructions of Claims 2, 13, 25, 35, wherein said method further comprises rejecting said selected MAC address by said client if a duplicate MAC address frame was received (column 5, lines 1-6).

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As per claims 5, 16, 27, 38, Jen discloses the method, processor and memory, and program instructions of Claims 2, 13, 25, 35, wherein said method further comprises discloses indicating a warning message by said client if no server confirms the availability of said selected MAC address (column 6, lines 47-53).

As per claims 6, 17, 28, 39, Jen discloses the method, processor and memory, and program instructions of Claims 2, 13, 25, 35, wherein said method further comprises indicating a warning message by said client if a duplicate MAC address frame is received (column 6, lines 5-10).

As per claims 7, 18, 29, 40, Jen discloses the method, processor and memory, and program instructions of Claims 2, 13, 25, 35, wherein said method further comprises:
returning to the act of selecting a MAC address by said client if no server confirms the availability of the selected MAC address (column 6, lines 41-43).

As per claims 8, 19, 30, 41, Jen discloses the method, processor and memory, and program instructions of Claims 2, 13, 25, 35, wherein said method further comprises:
returning to the act of selecting a MAC address by said client if a duplicate MAC address frame was received for the selected MAC address (column 6, lines 15-17).

Response to Arguments

The Office notes the following argument:

(a) Jennings does not teach the system or method for selecting a MAC address for a system.

3. Applicant's argument filed has been fully considered but is not persuasive.

In response to:

(a) Jennings discloses a server chooses a network address that has not been selected within a valid range. If another server has already selected that particular address, the server re-selects an address from the list of available addresses (column 4, lines 50-53, 65-67, column 5, lines 1-6, column 6, lines 7-12, 23-28, 65-67).

Therefore, Jennings, without a doubt, teaches "the system or method for selecting a MAC address for a system".

(b) Applicant is encouraged to review claim 34 for possible 101 non-statutory subject matter. Examiner recommends that "tangibly" be removed from the claim. Also, dependent claims 35-41 should recite "the program storage device of Claim 34". The necessary corrections are suggested.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barbara Burgess

Application/Control Number: 10/072,097

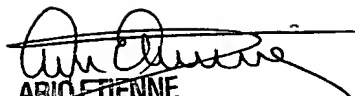
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February 19, 2007


ARIO ETIENNE
SENIOR PATENT EXAMINER
CENTER 2100